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22 **UNITED STATES DISTRICT COURT**

23 **SOUTHERN DISTRICT OF CALIFORNIA**

24 IN RE HYDROXYCUT  
25 MARKETING AND SALES  
PRACTICES LITIGATION

Case No.: 3:09-MD-02087-BTM(KSC)

26 ANDREW DREMAK, on Behalf of  
27 Himself, All Others Similarly  
28 Situated and the General Public,

Case No.: 3:09-CV-01088-BTM(KSC)

Plaintiff,

**PLAINTIFF'S OPPOSITION TO  
MOTION TO QUASH SUBPOENAS**

vs.

IOVATE HEALTH SCIENCES  
GROUP, INC., *et al.*,

Dept.: 15B, 15th Floor - Annex  
Judge: Hon. Barry Ted Moskowitz

Defendants.

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1      **I. INTRODUCTION**

2      Courts and commentators have recognized the need to take discovery from  
3      “professional” or “serial” objectors and their attorneys to determine whether the  
4      objectors are actually members of the class, have a legitimate basis for their  
5      objections and whether the objection is motivated by self-interest rather than a  
6      desire to win significant improvements to the class settlement. *See, e.g., In re*  
7      *Cathode Ray Antitrust Litig.*, 281 F.R.D. 531, 533 (N.D. Cal. 2012); *In re Law*  
8      *Office of Jonathan E. Fortman, LLC*, No. 4:13MC00042, 2013 U.S. Dist. LEXIS  
9      13903, at \*3 (E.D. Mo. Feb. 1, 2013).

10     Here, after notice was provided to the Class, only one objection was  
11    lodged. The objection covers the waterfront – literally every aspect of the  
12    settlement is attacked, albeit superficially. The objectors have filed similar  
13    objections in the past and one has been represented by the same lawyer  
14    representing them here: Darrell Palmer, one of the most prolific serial objector  
15    attorneys in the country. *See In re Oil Spill*, No. 12-968, 2013 U.S. Dist. LEXIS  
16    4595, at \*154 (E.D. La. Jan. 11, 2013) (“Mr. Palmer has been deemed a ‘serial  
17    objector’ by several courts.”).

18     Courts, the Manual for Complex Litigation, and commentators have  
19    recognized the problem posed by serial objectors. The serial objector files an  
20    objection with the purpose of exacting payment in return for dismissing the  
21    objection. If the payoff is not made right away, he or she loses the objection and  
22    then files a notice of appeal to increase leverage by taking advantage of the  
23    accompanying delay.

24     Mr. Palmer has played this game many dozens of times over the past  
25    decade. Even in his Motion to Quash, he describes how it often works: counsel  
26    “generally pick up the phone to call an objector’s lawyer to discuss the concerns  
27    raised in the objection.” *See D.E. No. 1641 (“Motion to Quash”) at 2, n.1.* The  
28    call is not intended to better the settlement, but rather, to negotiate the amount of

1 money Mr. Palmer wants to withdraw the objection.

2 For this reason, the Manual for Complex Litigation advises that courts  
 3 should seek to distinguish between legitimate objections, which play an  
 4 important role in the class action approval process, and illegitimate ones:

5 Some objections, however, are made for improper purposes, and  
 6 benefit only the objectors and their attorneys (e.g., by seeking  
 7 additional compensation to withdraw even ill-founded objections).  
 8 An objection, even of little merit, can be costly and significantly  
 9 delay implementation of a class settlement. Even a weak objection  
 10 may have more influence than its merits justify in light of the  
 inherent difficulties that surround review and approval of a class  
 settlement. Objections may be motivated by self-interest rather than  
 a desire to win significant improvements in the class settlement. A  
 challenge for the judge is to distinguish between meritorious  
 objections and those advanced for improper purposes.

11 *Manual for Complex Litigation* (Fourth) §21.643.

12 As other courts have permitted, Class Counsel seek discovery to assist the  
 13 Court in determining whether Mr. Palmer's objection is "advanced for improper  
 14 purposes" and to ensure a full and complete record for the appeal that will likely  
 15 follow after this Court overrules the objection. Thus, Class Counsel seek to  
 16 depose Mr. Blanchard and Ms. McBean and to obtain certain records from Mr.  
 17 Palmer.<sup>1</sup>

## 18 II. THE REQUESTED DISCOVERY

19 Plaintiff seeks to depose Mr. Blanchard and Ms. McBean on topics  
 20 including (1) the basis and reasoning behind their objections; (2) whether Mr.  
 21 Blanchard and Ms. McBean have standing as class members to object to the  
 22 settlement; and (3) whether they and their counsel are objecting for legitimate or  
 23 improper purposes. *See In re Cathode Ray Antitrust Litig.*, 281 F.R.D. at 533  
 24 (ordering objector's deposition and document production on "the objector's

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25  
 26 <sup>1</sup> At this point, Class Counsel need not depose Mr. Palmer, and request an  
 27 opportunity to decide whether a deposition is necessary after the requested  
 documents have been produced.

1 standing, the bases for his current objections, his role in objecting to this and  
 2 other class settlements, and his relationships with the counsel that are believed to  
 3 be behind the scenes manipulating him”).

4 Plaintiff also seeks documents from Mr. Palmer relating to his (1) history  
 5 of objecting to class action lawsuits, (2) history of receiving payments in  
 6 exchange for dismissing objections to class action settlements, (3) instances in  
 7 which Mr. Palmer has been sanctioned or had appeal bonds imposed against him  
 8 or his clients in connection with objections to class action settlements, and (4)  
 9 the retention of Mr. Blanchard and Ms. McBean in this lawsuit. *See* Ex. E  
 10 (Subpoena to Mr. Palmer) at p.6.<sup>2</sup> Plaintiff seeks this information “because when  
 11 assessing the merits of an objection to a class action settlement, courts consider  
 12 the background and intent of objectors and their counsel, particularly when  
 13 indicative of a motive other than putting the interest of the class members first.”  
 14 *In re Law Office of Jonathan E. Fortman, LLC*, 2013 U.S. Dist. LEXIS 13903, at  
 15 \*3; *see also Manual for Complex Litigation* (Fourth) §21.643 (the court should  
 16 “distinguish between meritorious objections and those advanced for improper  
 17 purposes”); Ex. F, *Sullivan v. Kelly Services, Inc.*, No. 08-cv-3893 (N.D. Cal.  
 18 Aug. 10, 2011) (order granting plaintiff’s motion to depose the custodian of  
 19 records for Law Offices of Darrell Palmer “regarding any fee agreement between  
 20 the Law Offices of Darrell Palmer and [the objector]”).

21 **III. PROFESSIONAL OBJECTIONS, MR. PALMER AND HIS  
 22 CLIENTS**

23 **A. Courts Should Identify and Overrule Serial Objections, Not  
 24 Empower the Objector**

25 With a serial objection, “the unfortunate game is to lodge pro forma

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26  
 27 <sup>2</sup> “Ex. Citations refer to documents attached to the concurrently filed Declaration  
 28 of Thomas J. O'Reardon II (“O'Reardon Decl.”).  
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1       objections at the trial stage, then negotiate a private resolution in order to drop  
2       the invariable notice of appeal. Once the case has progressed beyond the trial  
3       court, there is no longer any accountability for side payments to objectors'  
4       counsel, and the game is on." *In re Checking Account Overdraft Litig.*, 830 F.  
5       Supp. 2d 1330, 1362 n.30 (S.D. Fla. 2011) (internal quotations omitted).  
6       "[P]rofessional objectors can levy what is effectively a tax on class action  
7       settlements, a tax that has no benefit to anyone other than to the objectors.  
8       Literally nothing is gained from the cost: Settlements are not restructured and the  
9       class, on whose benefit the appeal is purportedly raised, gains nothing." *Barnes*  
10      *v. Fleet Boston Fin. Corp.*, No. 01-10395, 2006 U.S. Dist. LEXIS 71072, at \*3-4  
11      (D. Mass. Aug. 22, 2006); *see also Duhaime v. John Hancock Mut. Life Ins. Co.*,  
12      183 F.3d 1, at 6-7 (1st Cir. 1999) ("[W]e recognize that a class member and his  
13      or her attorney conceivably could object to a proposed settlement solely to set up  
14      an appeal designed to obtain a nuisance value recovery and/or advantageous fee  
15      arrangement."); *Devlin v. Scardelletti*, 536 U.S. 1, 23 n.5 (2002) (Scalia, J.,  
16      dissenting) (observing that professional objectors' penchant for filing "canned"  
17      briefs and baseless objections often leads to baseless appeals in the quest for a  
18      fee); Bruce D. Greenberg, *Keeping the Flies out of the Ointment: Restricting*  
19      *Objectors to Class Action Settlements*, 84 St. John's L. Rev. 949, 950 (2010)  
20      (describing how objections are used for improper purposes); Federal Judicial  
21      Center, Barbara J. Rothstein & Thomas E. Willging, *Managing Class Action*  
22      *Litigation: A Pocket Guide for Judges*, at 17 (3d ed. 2010) ("be wary of self-  
23      interested professional objectors"); Alba Conte & Herbert B. Newberg, 5  
24      *Newberg on Class Actions* §15:37 (4th ed. 2002).

25       The court's role is to determine whether the objection was brought out of a  
26       true desire to improve the settlement, or for an improper purpose, and overrule  
27       those brought for an improper purpose. Class Counsel's role is to provide the  
28

1 court with the information it needs to make this determination, and to ensure an  
 2 adequate record is created for the inevitable appeal.

3           **B. Mr. Palmer Is a Serial Objector with a Shameful History**

4           Since approximately 2007, Mr. Palmer has filed objections in at least 79  
 5 cases in federal court and an unknown number in state courts. *See* O'Reardon  
 6 Decl., ¶3. Courts have deemed Mr. Palmer a serial objector. *See, e.g., In re Oil*  
 7 *Spill*, 2013 U.S. Dist. LEXIS 4595, at \*154 n.40; *Heekin v. Anthem, Inc.*, No. 05-  
 8 cv-1908, 2013 U.S. Dist. LEXIS 26700, at \*9 (S.D. Ind. Feb. 27, 2013); *Gemelas*  
 9 *v. Dannon Co.*, No. 08-cv-236, 2010 U.S. Dist. LEXIS 99503, at \*5 (N.D. Ohio  
 10 Aug. 31, 2010); *In re Uponor, Inc.*, No. 11-MD-2247, 2012 U.S. Dist. LEXIS  
 11 130140, at \*8-9 (D. Minn. Sept. 11, 2012) (Mr. Palmer “is believed to be a serial  
 12 objector to other class-action settlement[s]”). Mr. Palmer admits he “filed  
 13 objections in many, many cases.” Ex. G (Fairness Hearing Transcript from *In re*  
 14 *Oil Spill*) at pp. 223-24. *See also* Ex. U (Appeal Bond Hearing Transcript in  
 15 *Poss v. 21st Century*, No. BC297438 (Los Angeles Super. Ct. April 25, 2011) at  
 16 p.18 (noting Mr. Palmer’s history of objecting: “There is a history here, and the  
 17 history is not one that you [Mr. Palmer] should be proud of.”).

18           Mr. Palmer repeatedly has been found to engage in bad faith or vexatious  
 19 conduct. *In re Uponor, Inc.*, 2012 U.S. Dist. LEXIS 130140, at \*8 (imposing  
 20 \$170,000 appeal bond upon finding “that the Palmer Objectors have evidenced  
 21 bad faith and vexatious conduct.”); *Heekin*, No. 11-md-2247, 2012 U.S. Dist.  
 22 LEXIS 130140, at \*9-10 (bad faith and vexatious conduct); *In re TFT-LCD*  
 23 *Antitrust Litig.*, No. 07-1827, 2013 U.S. Dist. LEXIS 23109, at \*59-60 (N.D.  
 24 Cal. Feb. 19, 2013) (finding Mr. Palmer and his objector clients (his wife and  
 25 aunt) in civil contempt and awarding monetary sanctions for violating order  
 26 compelling objectors to appear for deposition); Ex. H *In re MagSafe Apple*  
 27 *Power Adapter Litig.*, No. 09-1911, at p. 3 (N.D. Cal. July 6, 2012) (imposing  
 28

1 appeal bond upon finding that Mr. Palmer's objections are "without merit"); *City  
2 of Greenville v. Syngenta Crop Prot., Inc.*, No. 10-cv-188, 2012 U.S. Dist.  
3 LEXIS 130383, at \*9 (S.D. Ill. Sept. 13, 2012) (finding Mr. Palmer's objection  
4 untimely, but stating court would have "addressed any frivolous objections using  
5 Rule 11 sanctions.").

6 While representing objectors, Mr. Palmer has had his *pro hac vice* status  
7 revoked or not approved for concealing that he is a felon who has been  
8 suspended from practice law by the state bar associations of Arizona, California  
9 and Colorado. *See* Ex. I (Fairness Hearing Transcript in *Arthur v. Sallie Mae,  
10 Inc.*, No. 10-cv-198 (W.D. Wash. Sept. 14, 2012) ("Sallie Mae Hearing  
11 Transcript")) at p. 8 ("Mr. Palmer improperly certified and declared under  
12 penalty of perjury that he did not have a disciplinary history."), 10 and 14  
13 (detailing Mr. Palmer's "several other misrepresentations"); Ex. J (order denying  
14 Mr. Palmer's *pro hac vice* application in *Herfert v. Crayola, LLC*, No. 11-cv-  
15 1301 (W.D. Wash. Aug. 17, 2012)); *cf. Heekin*, 2013 U.S. Dist. LEXIS 26700, at  
16 \*9 (Mr. Palmer withdrew his request to appear *pro hac vice* after the court  
17 scheduled a conference to discuss his motion); *In re Uponor, Inc.*, 2012 U.S.  
18 Dist. LEXIS 130140, at \*8-9 ("the Palmer objectors appear to be represented by  
19 an attorney who has not entered an appearance in this case and who is believed to  
20 be a serial objector").

21 Mr. Palmer describes objecting to class action settlements as a "hobby,"  
22 while boasting that he has made "a lot" of money dismissing objections in return  
23 for payment. *See* Ex. K at 33 minutes ("hobby") and at 44 minutes, 55 seconds  
24 (money) (audio recording of Darrell Palmer speaking at a CLE panel entitled  
25 "Melee In Manhattan! Class Action Objectors: Are They Protectors of Absent  
26 Class Members or Merely Gadflies?" on October 14, 2011); *see also*  
27 <http://classactionblawg.com/2011/10/17/notes-from-the-15th-annual-national->

1 institute-on-class-actions/ (discussing the Melee In Manhattan! conference) (last  
 2 visited April 8, 2013).

3 Mr. Palmer typically uses the same group of people as objectors. His  
 4 objectors include family members such as his wife (who uses her maiden name  
 5 when objecting, Alison Haley Paul), his aunt (Leveta Chessier), his brother  
 6 (Norman Palmer), and others (Edwin Paul, Judy Paul, Paul Palmer, and Jeffrey  
 7 Palmer), as well as employees (Margaret Strohlein). He also borrows objectors  
 8 (such as Mr. Blanchard) from the small group of lawyers around the country who  
 9 are also serial objectors.

10 **C. Mr. Blanchard and Ms. McBean Have Been Previously Used in**  
 11 **Frivolous Objections**

12 Mr. Blanchard has filed at least two objections in 2012, each of which was  
 13 overruled. *See Ex. L* (objection in *Fishbein v. All Market Inc. d/b/a Vita Coco*,  
 14 No. 11-cv-5580 (S.D.N.Y.)), and *Ex. M* (objection in *Patch v. Millennium Prods., Inc.*,  
 15 No. BC448347 (Los Angeles Cty. Sup. Ct.)). The objections were likely  
 16 ghost-written by Christopher Bandas, a Corpus Christi lawyer who frequently  
 17 objects with Mr. Palmer and shares in the payoff. *Compare id. with Ex. W*  
 18 (objection ghost-written by Christopher Bandas in *In re Reebok EasyTone Litig.*)

19 Here, Mr. Blanchard has not submitted a settlement claim. *See O'Reardon*  
 20 *Decl., ¶2.* If he does not intend to participate in the settlement, why is he  
 21 objecting?

22 Ms. McBean previously filed at least one objection in which she was  
 23 represented by Mr. Palmer. The objection, which was overruled, was also  
 24 superficial. *See Ex. N* (objection in *Arthur v. Sallie Mae, Inc.*, No. 10-cv-198  
 25 (W.D. Wash.)). As discussed above, the court in *Sallie Mae* caught Mr. Palmer  
 26 concealing his past felony and the various states bar disciplinary actions against  
 27 him.

1       Here, it is unknown whether Ms. McBean actually authorized the  
 2 objection or knows anything about it. Class Counsel attempted to serve her at  
 3 two addresses, including the address listed on the settlement claim form  
 4 submitted in her name. *See* Exs. B-C. At both addresses, the process server was  
 5 told that she no longer lived at the addresses. Based on the statements of the  
 6 current resident, she would not have lived at the address listed on the claim form  
 7 at the time the claim form was submitted. *See* Ex. C. Thus, it is unclear whether  
 8 Ms. McBean is even aware of the objection. A deposition will provide answers.

#### 9       **IV. THE COURT SHOULD PERMIT THE REQUESTED DISCOVERY**

10      Rule 30(a)(1) provides that “[a] party may, by oral questions, depose any  
 11 person, including a party, without leave of court...” Immediately upon receiving  
 12 Mr. Palmer’s objection, Class Counsel issued and attempted to serve the subject  
 13 subpoenas to meet the impending deadlines for final approval briefing.

14      Contrary to the motion to quash, the subpoenas are not “improper,”  
 15 “abusive,” “oppressive” or “malicious.” First, the discovery is needed to  
 16 determine whether the objectors are actually members of the class. If they are  
 17 not members, they do not have standing to object. *Gould v. Alleco, Inc.*, 883  
 18 F.2d 281, 284 (4th Cir. 1989) (“The plain language of Rule 23(e) clearly  
 19 contemplates allowing only class members to object to settlement proposals.”);  
 20 *see also San Francisco NAACP v. San Francisco Unified Sch. Dist.*, 59 F. Supp.  
 21 2d 1021, 1032 (N.D Cal. 2001); Alba Conte & Herbert B. Newberg, 4 *Newberg*  
 22 *on Class Actions* §11:55 (4th ed. 2002).

23      In the past, Mr. Palmer has been caught using objectors who were not  
 24 members of the class. *See, e.g., In re Uponor, Inc.*, 2012 U.S. Dist. LEXIS  
 25 130140, at \*8 (“[m]ost critically, the Palmer Objectors are not class members”);  
 26 Ex. H (Order Granting Appeal Bond in *In re MagSafe Apple Power Adapter*  
 27 *Litig.*, No. 09-1911 (N.D. Cal. July 6, 2012)) at p.3 (“[a]s a threshold matter, the

1 Court has significant concern regarding whether Objector Sweeney is even a  
 2 member of the settlement class"); Ex. I (*Sallie Mae Hearing Transcript*) at p.17  
 3 ("it is highly questionable whether [Mr. Palmer's client] even has standing in this  
 4 action"). As Ms. McBean's circumstances demonstrate, it is not clear that the  
 5 objectors know anything about the objection, authorized it, support it or have any  
 6 understanding of it.

7 Class Counsel also wish to probe aspects of the objection. For example,  
 8 the objection states:

9 Objection is made to the extent the proponents of this settlement do  
 10 not satisfy their burden of proving commonality, predominance,  
 11 superiority and adequacy of class counsel and class representatives.

12 *See D.E. No. 1640 at 4.* Why would a purchaser of this product seek to defeat  
 13 certification of the class, effectively eliminating his, her and the class's ability to  
 14 obtain redress for the alleged false advertising? The objection also contends that  
 15 the claims process is "difficult" and "will reduce legitimate, meritorious claims."  
 16 Someone submitted a claim in Ms. McBean's name with no apparent difficulty.  
 17 It does not appear that Mr. Blanchard attempted to submit a claim at all. The  
 18 objection is, predictably, silent on any details. Without explanation, the  
 19 objection contends the settlement is insufficient. Why do the objectors think it  
 20 is, if they do at all?

21 Discovery is also appropriate because of the history of Mr. Palmer and his  
 22 clients. The information sought is "relevant to assessing the merits of the  
 23 objection," because "courts consider the background and intent of objectors and  
 24 their counsel, particularly when indicative of motive other than putting the  
 25 interest of the class members first." *See In re Law Office of Jonathan E.*  
*26 Fortman, LLC*, 2013 U.S. Dist. LEXIS 13903, at \*3-4; *see also Manual for*  
*27 Complex Litigation (Fourth)* §21.643, at p. 326.

1       Taking discovery from serial objectors (as opposed to regular class  
 2 members who may object) is commonplace. By interjecting themselves as active  
 3 participants in the litigation and possibly delaying the action for years, these  
 4 professionals should submit to discovery. In denying a motion to quash brought  
 5 by a serial objector, one court explained:

6       I cannot believe that it would be right for someone to be able to  
 7 simply file an objection and then not be questioned further about it. . .  
 8 . . . [I]f I were the court looking at this fairness and holding the  
 9 Fairness Hearing, I would want to know from Ms. Rivero for  
 10 instance, what are the bases of her objection. . . . I do not see that  
 11 it's fair that Ms. Rivero can just file an objection and then leave it at  
 12 that. And if I were the district court, I would want to know what's  
 13 going on and why she filed objections, especially in view of the fact  
 14 that she can opt out – but she doesn't want to opt out, she wants to  
 make a claim and file objections. . . . [Ms. Rivero] has injected  
 herself into this – the fairness of the settlement by stating that she  
 has an objection, and I just don't see that there's anything wrong  
 with trying to go behind that and ask her a few questions.

15      Ex. O at p. 42-43 (motion to quash hearing transcript from *In re Reebok*  
 16 *Easytone Litig.*, No. 12-MC-2 (S.D. Tex. Jan. 6, 2012)).

17      Similarly, in *Dennings v. Clearwire Corp.*, No. 10-1859 (W.D. Wash. Dec.  
 18 11, 2012), the court ordered depositions where “Plaintiffs have demonstrated  
 19 legitimate concerns regarding whether the objections made [] are serious and  
 20 whether their attorney is a so-called ‘professional objector.’” See Ex. P. See  
 21 also *In re Static Random Access Memory Antitrust Litig.* (“*In re SRAM
 22 M:07-CV-01819, MDL No. 1819, 2011 U.S. Dist. LEXIS 112915, at \*27-28  
 23 (N.D. Cal. Sept. 23, 2011) (denying Mr. Palmer’s motion to quash and ordering  
 24 his clients to produce documents sought by subpoena (attached hereto as Ex. Q)  
 25 and sit for deposition); Ex. R (order from *Stern v. AT&T Mobility Corp.*, No. 05-  
 26 cv-8842 (C.D. Cal. Oct. 15, 2010) denying Mr. Palmer’s motion to quash and  
 27 ordering his clients to be deposed regarding their “standing, factual allegations*

1 supporting objections, and whether objections in other class action cases have  
 2 been made by the objectors").

3 Despite generalized cries of "abuse" and "malice," Mr. Palmer regularly  
 4 loses motions to quash based on the same arguments he makes here. *See In re*  
 5 *SRAM*, 2011 U.S. Dist. LEXIS 112915, at \*27-28 (denying Mr. Palmer's motion  
 6 to quash and ordering his clients to produce documents and sit for deposition);  
 7 Ex. F (order compelling discovery from Mr. Palmer in *Sullivan v. Kelly Services,*  
 8 *Inc.*, No. 08-cv-3893 (N.D. Cal. Aug. 10, 2011)).<sup>3</sup>

9 There many examples where Mr. Palmer steadfastly refuses to comply  
 10 with court orders and instead appeals them, demonstrating the need to create a  
 11 solid appellate record. The discovery plaintiff seeks will allow us to create that  
 12 record.

13 For example, in *In re TFT-LCD Antitrust Litig.*, No. 07-1827 (N.D. Cal.),  
 14 Judge Susan Ilston ordered Mr. Palmer and his clients (who were his wife, his  
 15 aunt and another serial objector) to sit for deposition. *See* Ex. S. They were then  
 16 sanctioned after ignoring the order. *In re TFT-LCD*, 2013 U.S. Dist. LEXIS  
 17 23109, at \*59-60. Mr. Palmer then requested 90 days to pay the sanction and a  
 18 stay of the order to permit an appeal. The court denied the request. *In re TFT-*  
 19 *LCD*, 2013 U.S. Dist. LEXIS 34845, at \*44-45 (N.D. Cal. Mar. 12, 2013); *see*  
 20 *also* Ex. T (order to show cause hearing transcript from *In re TFT-LCD*) at p.4.

21 During the hearing on the order to show cause, Judge Ilston questioned  
 22 Mr. Palmer about why he ignored the discovery orders:

23

24

---

25 <sup>3</sup> Mr. Palmer nonetheless failed to comply with the order, and the court held Mr.  
 26 Palmer in contempt. Mr. Palmer then refused to comply with the court's  
 27 contempt order, claiming "[t]he Northern District simply has no power to  
 enforce a subpoena outside of the Northern District." *See In re SRAM*, D.E.  
 No. 1399.

1           **The Court:** Is it not the first time that you've defied a court order?

2           **Mr. Palmer:** Your Honor, I didn't defy the court order.

3           **The Court:** You were ordered. You were ordered to produce these  
4           folks for deposition.

5           **Mr. Palmer:** Well, Your Honor --

6           **The Court:** And you didn't do it.

7           **Mr. Palmer:** I – I think that ordering somebody to produce  
8           someone else is – I mean, how can you order me to produce my  
9           wife at deposition? That's –

10          **The Court:** Because you were representing her. She was your  
11          client. You undertook to file a claim on her behalf. So I hope you  
12          explain to her that the problem is you chose her to be the objector in  
13          this case, and not that the Court told you that she needed to give her  
deposition.

14          *Id.* at p.12. To date, Mr. Palmer has not paid the sanctions imposed by Judge  
15          Ilston. *See In re TFT-LCD*, D.E. No. 7717 (on April 8, 2013, plaintiffs filed a  
16          motion for an order to show cause why Mr. Palmer and the objectors should not  
17          be held in contempt and further sanctioned).

18          In *Embry v. ACER America Corp.*, No. 09-cv-1808 (N.D. Cal.), Judge  
19          James Ware ordered Mr. Palmer's client (who was himself a serial objector  
20          attorney) to dismiss his appeal or post a bond in the amount of \$70,650 because  
21          "his objections to the settlement are lacking in merit." *See Ex. U.* Mr. Palmer  
22          ignored the order and refused to pay the bond. The court found Mr. Palmer and  
23          his client in contempt and struck the objection. Rather than dismiss his appeal,  
24          Mr. Palmer included the contempt order in his appeal. Plaintiff moved again for  
25          an order requiring, among other things, that Mr. Palmer and his client to (1) sit  
26          for deposition, (2) pay attorneys' fees and costs, (3) and disclose the ruling made  
27          by Judge Ware in future cases. Mr. Palmer dismissed his appeal shortly after  
28

1 plaintiff's motion for further sanctions was filed. *See Embry*, D.E. Nos. 277,  
 2 280.

3 Before Mr. Palmer and his clients appeal an order approving the proposed  
 4 settlement and forcing class members to wait to receive the settlement  
 5 consideration, the objectors should be deposed and Mr. Palmer should be ordered  
 6 to produce the requested documents.

7 **V. CONCLUSION**

8 Plaintiff respectfully requests that this Court: (a) deny the Motion to  
 9 Quash; (b) command Mr. Palmer to produce the requested documents at the  
 10 offices of Blood Hurst & O'Reardon, LLP, 701 B Street, Suite 1700, San Diego,  
 11 CA 9210 on or before April 17, 2013, at 12:00 p.m.; (c) command Blanchard to  
 12 appear for deposition at US Legal Support, 802 N. Carancahua Street, Suite  
 13 2280, Corpus Christi, TX 78401 on April 18, 2013, at 12:00 p.m.; and (d)  
 14 command McBean to appear for deposition at Hampton Inn & Suites, 11951  
 15 State Highway 267, Truckee, CA 96161 on April 19, 2013, at 12:00 p.m.

16  
 17 Dated: April 16, 2013

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*Co-Lead Class Counsel*

BLOOD HURST & O'REARDON, LLP

## CERTIFICATE OF SERVICE

I hereby certify that on April 16, 2013, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the Electronic Mail Notice List.

Executed on April 16, 2013.

s/ Timothy G. Blood  
TIMOTHY G. BLOOD

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